



## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 982

[Docket No. FR-5928-N-01]

#### Notice of Demonstration to Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** Through this document, HUD solicits comment on a demonstration designed to test a new method of assessing the physical condition of housing assisted by HUD vouchers (voucher-assisted housing). In the Joint Explanatory Statement accompanying the act appropriating funds for HUD in Fiscal Year (FY 2016), Congress directed HUD to implement a single inspection protocol for public housing and voucher units. This demonstration would commence the process for implementing a single inspection protocol.

**DATES:** Comments Due Date: **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit comments to the Office of the General Counsel, Regulations Division, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500. Communications should refer to the above docket number and title and should contain the information specified in the "Request for Comments" section. There are two methods for submitting public comments.

*1. Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban

Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at all federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that comments submitted by mail be submitted at least two weeks in advance of the public comment deadline.

*2. Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted using one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

*No Facsimile Comments.* Facsimile (fax) comments are not acceptable.

*Public Inspection of Comments.* All comments and communications submitted to HUD will be available, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Daniel R. Williams, Real Estate Assessment

Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12<sup>th</sup> Street, SW, Suite 100, Washington DC 20410-4000; telephone number 202-475-8586 (this is not a toll-free number). Persons with hearing or speech impairments may contact this number via TTY by calling the toll-free Federal Relay Service at 800-877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **I. Structure of the Notice**

The following four sections discuss the background through the solicitation of comments. Section II below provides background information on oversight of the Housing Choice Voucher inspection program and explains the origins of the Uniform Physical Condition Standards for Vouchers (UPCS-V), an alternative approach for ensuring safe, habitable voucher-assisted housing. In Section III, the notice explains the three main areas that will be evaluated during the demonstration, which are: the objective condition standards including a list of life threatening and emergency items that must be addressed, the revised information technology (IT) processes, and the new oversight approach. Also in Section III, HUD discusses the general public housing agency (PHA) participation criteria it will use to select a representative mix of volunteer PHAs. In Section IV, HUD describes the process by which HUD will assess the results of the demonstration. In the last section of this notice, Section V, HUD solicits public comment generally as well as on several questions of specific interest.

### **II. Background**

HUD's Housing Choice Voucher (HCV) program serves approximately 2.2 million households nationwide. The HCV program is administered by PHAs at the State and local levels and allows participants the opportunity to rent from private landlords in the neighborhood of their choosing. The goal of the HCV program is to enable access to decent, safe and sanitary

affordable housing for low-income families. In the 1970's HUD established housing quality standards (HQS) in accordance with the U.S. Housing Act of 1937 (1937 Act) (42 U.S.C. 1437 et seq.). Section 8(o)(8)(B) of the 1937 Act (42 U.S.C. 1437f(o)(8)(B)), directs HUD to establish standards for safe and habitable housing. These standards are codified in HUD regulations at 24 CFR 982.401. PHAs use these standards to determine if housing meets the minimum criteria necessary for the safety and habitability of occupants assisted under the program.

The HUD Office of Inspector General (OIG) has released several audit reports and evaluations that identified weakness in the HCV inspection program.<sup>1</sup> These OIG reports and other factors led to the report of the Senate Committee on Appropriations, Report 113-045, that accompanied the Senate bill for HUD's 2014 appropriations, and directed HUD to "...move to a consistent inspection standard across housing assistance programs, as well as [for] oversight of Section 8 units."<sup>2</sup> In response to this directive, HUD conducted a quality assurance review of HCV units using its current HQS inspection model.<sup>3</sup> The results of these inspections showed that the current HQS protocol lacked objective, well-defined deficiency descriptions, was unable to capture granular unit conditions, and relied on a paper inspection form. In addition, there was an absence of modern health standards such as carbon monoxide detectors and sprinkler systems, and an absence of a universal list of life threatening or emergency deficiencies. HUD determined that these factors resulted in inconsistent application of HQS standards, and there was potential for inconsistent housing outcomes and exposure of families to health and safety hazards.

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<sup>1</sup> See e.g., HUD OIG Reports: 2008-AT-003; 2012-BO-1005

<sup>2</sup> See page 100 of <https://www.gpo.gov/fdsys/pkg/CRPT-113srpt45/pdf/CRPT-113srpt45.pdf>.

<sup>3</sup> See [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/reac/oed](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/oed)

At the conclusion of the quality control review, HUD accelerated the search for a replacement to the Housing Quality Standards, leading to the eventual development of UPCS-V. In the Joint Explanatory Statement accompanying the Consolidated Appropriations Act of 2016, Public Law 114-113, approved December 18, 2015, Congress directed HUD to implement a single inspection protocol for public housing and voucher units.<sup>4</sup> This demonstration would commence the process for implementing a single inspection protocol by soliciting PHAs to voluntarily move to the single inspection protocol, conduct field testing, and participate in oversight and monitoring activities related to the new standard. In addition to improving outcomes for families and aligning program standards, this demonstration will provide valuable feedback to HUD about how to efficiently and effectively implement UPCS-V at all PHAs. Congress has provided HUD with funding to improve its oversight of the HCV inspection program and to move the inspection standard for the HCV program to one that is consistent with other affordable housing programs and that incorporates modern health and safety practices.<sup>5</sup>

### **III. The Demonstration**

#### **A. Overview**

In response to Congressional direction and HUD's own goal to improve the effectiveness of the inspection of public and assisted housing while minimizing burdens, HUD is developing a new inspection and oversight approach called UPCS-V. UPCS-V incorporates housing health and safety constructs, concepts from the Uniform Physical Condition Standard (UPCS), codified in HUD regulations at 24 CFR 5.703, and HQS, codified at 24 CFR 982.401. The new UPCS-V

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<sup>4</sup> See page 41 of Division L of the FY2016 Joint Explanatory Statement. See <https://rules.house.gov/bill/114/hr-2029-sa>.

<sup>5</sup> See Title II of Division K of the FY2015 Joint Explanatory Statement. See <https://www.congress.gov/congressional-record/2014/12/11/house-section/article/H9307-1>.

will include deficiency definitions and decision criteria, and tailored standards and protocols to better meet HCV program needs. The UPCS protocol is currently recognized by industry stakeholders as the benchmark for government-assisted and affordable housing inspections. This Demonstration is the first step in implementing an aligned inspection protocol for public housing/multi-family housing and voucher programs, and will test the UPCS-V inspection model's ability to assess the physical condition of assisted housing, improve service delivery, enhance oversight and risk management capabilities, and better identify health and safety hazards in the home.

#### B. The New Inspection Model and Demonstration Protocols

Under this Demonstration, HUD will test, for up to three years, with up to 250 PHAs, the UPCS-V model as a new method of assessing the physical condition of voucher-assisted housing.

In addition to hands-on training and technical assistance that will be provided by HUD to participating PHAs, some additional benefits of participating in the Demonstration include the opportunity to provide input to HUD on further refining the UPCS-V standards and processes, and the ability to evaluate, test, and refine internal PHA systems and processes.

There are three components to the Demonstration, each of which may run concurrently:

- Evaluation of Revised Inspection Model (UPCS-V)
- Data Standardization and Information Exchange
- Oversight and Performance Improvement

##### Component 1: Evaluation of the Revised Inspection Model (UPCS-V)

For the past 17 years, HUD has used the UPCS protocol when conducting over 310,000 physical inspections of public housing (PH) and subsidized multifamily housing (MFH)

developments, solidifying UPCS as the industry standard for government-assisted and affordable housing inspections. HUD leveraged its experience with UPCS and developed a product tailored to the objectives of the HCV program. The scope of the inspection, the procedural guidelines, and the individual deficiencies have been modified to emphasize those areas that present the highest risk of harm to the family living in the HCV assisted unit.

UPCS-V seeks to utilize well-defined and objective deficiency descriptions that can be used consistently within and across PHAs. The following table summarizes some of the high-level similarities and differences between UPCS-V and HQS.

Item	HQS	UPCS-V
Provides standardized list of deficiencies and measurable criteria		X
Defined standardized list of Life Threatening and Emergency items		X
Up-to-date health and safety standards		X
Designed as a unit-based inspection standard for federally assisted units	X	X
Inspection standard aligned with other federally assisted programs		X
Pass/Fail results for all deficiencies	X	X
PHA ability to adopt HUD-approved variances	X	X
Uniform inspector training and registration		X
Includes guidance through the use of decision trees that lead to more consistent observations		X
Captures level of severity for line item deficiencies		X

Item	HQS	UPCS-V
Unit and room acceptability criteria	X	X
Standardized criteria for PHA submission of electronic inspection data to HUD		X
Customized unit condition index to provide value added analytics of inspection data to PHAs and stakeholders		X
Photo requirements for fail deficiencies		X
Allow PHAs the use photo and document evidence to ensure <u>all</u> fail deficiencies have been mitigated		X

Like UPCS, HUD anticipates that the new inspection model will enable a PHA inspector to more consistently identify and accurately describe those items that pose a risk to tenant health and safety in the home. The new inspection model developed by HUD has updated standards and a well-defined list of itemized deficiencies enabling inspectors to make more accurate and objective decisions on a consistent basis. The new inspection model differs from the current HQS inspection model in that it incorporates standards based on UPCS and uses a classification system that collects a more detailed level of data resulting in a better representation of the condition of the unit.

The new inspection protocol will capture levels of severity for line item deficiencies on an escalating scale of severity (L1, L2, L3). The classifications of minor (L1), major (L2) or significant (L3) would be used to determine the level of severity for each deficiency and to develop a unit condition index score. When considered in conjunction with a Pass/Fail determination, the unit condition index score would give residents, owners, PHAs, and HUD better insight into the overall condition of the unit. In addition to capturing a level of severity for



all deficiencies, HUD will create a minimum, standardized list of life threatening items that PHAs participating in the demonstration must treat as “24 Hour” deficiencies.

When an inspector finds Life Threatening or Emergency (LTE) deficiencies during an inspection, the inspector is to provide a list of such deficiencies to the responsible party -- either tenant or owner -- for repair within 24 hours. A specific set of deficiencies that must be addressed within 24 hours is not currently defined in HQS. UPCS-V will provide a list of LTE categories to use when inspecting HCV units during the Demonstration. PHAs will be responsible for additional items to this list.

<b>General Categories of Life Threatening and Emergency Items</b>	
<b>Life Threatening</b>	
<input type="checkbox"/>	Natural or Liquid Petroleum (LP) gas leak or fumes
<input type="checkbox"/>	Electrical problems which could result in shock or fire
<input type="checkbox"/>	Inoperable/missing smoke or carbon monoxide detector
<input type="checkbox"/>	Gas/Oil Fired Water Heater/HVAC with missing or misaligned chimney
<input type="checkbox"/>	Fire extinguishers expired or missing
<input type="checkbox"/>	Building lacks an alternate means of exit in case of fire/blocked egress

General Categories of Life Threatening and Emergency Items	
<b>Emergency</b>	
<input type="checkbox"/>	Missing entry door
<input type="checkbox"/>	The HVAC system fails to meet established criteria for emergency heating or cooling with consideration for ambient temperature range and ventilation
<input type="checkbox"/>	Absence of at least one functioning sink and toilet in unit
<input type="checkbox"/>	No working refrigerator
<input type="checkbox"/>	No working stove/oven or other method of heating/preparing food
<input type="checkbox"/>	Waterlogged/damaged ceilings, floor or walls in imminent danger of potential collapse
<input type="checkbox"/>	Major plumbing leaks or flooding
<input type="checkbox"/>	Utilities not in service (e.g., electricity, gas (LP/natural), water or oil)
<input type="checkbox"/>	No running hot water
<input type="checkbox"/>	Structural integrity condition where the building, or a component of the building, is in imminent danger of potential collapse

With the inclusion of a level of severity classification and a standardized list of life threatening items, the inspection report will be able to provide a more detailed description of the unit.

As part of the Demonstration, HUD will conduct extensive field tests of the standards and protocol with a representative sample of HCV units to verify that the UPCS-V model consistently, accurately, and objectively evaluates housing conditions. The feasibility of implementing the protocol will also be evaluated to identify potential barriers that would prevent PHAs from successfully implementing UPCS-V. After HUD's initial round of testing has been completed, PHAs participating in this component of the Demonstration will conduct a portion, depending on the PHA's capabilities, of up to 100 percent of their required HCV physical inspections using UPCS-V in place of HQS. This component will continue throughout the up to three-year duration of the Demonstration until HUD has sufficient information to evaluate the success of PHAs using UPCS-V and assurance that the new method is achieving consistent results.

#### Component 2: Data Standardization and Information Exchange of UPCS-V Inspections

UPCS-V is designed as an electronic inspection model. This component of the Demonstration will test the transition from a paper-based to an electronic inspection approach. Initially, the UPCS-V inspections will be performed electronically using HUD-provided software, and all inspections will include photos of the most severe deficiencies. For PHAs with their own IT systems, including PHA-produced or provided inspection software, HUD also will test the feasibility of different methods of transferring physical inspection information between PHA and HUD systems.

PHAs participating in this component will be required to document and submit to HUD all UPCS-V inspections electronically. HUD anticipates that it will then review, analyze, and where appropriate, transform the inspection data into value-added information, such as a scoring report, healthy homes report, and relative risk reports, for electronic transmission back to the PHA for its use.

PHAs participating in this component of the Demonstration and that use non-HUD provided software will be required to have and maintain the information technology resources and support necessary to interface with HUD's systems using industry standard file transfer protocols such as Simple Object Access Protocol (SOAP) and Representational State Transfer (REST) standards. Some data exchange may be via transfer of flat files.

### Component 3: Oversight and Performance Improvement

In this component of the Demonstration, HUD seeks to ensure PHAs are consistently identifying substandard housing, remedying such cases appropriately and in a timely manner, and accurately reporting HCV unit-based inspection outcomes to HUD. Selected PHAs will be required to participate in quality assurance and internal controls reviews, technical assistance, and training activities. As part of the Demonstration, HUD will analyze PHAs' capacity,

competencies, inspection processes and systems that are in place to effectively manage and evaluate HCV units as decent, safe, and sanitary. Further, HUD will test the capacity of the UPCS-V model to identify properties that are at risk of falling into non-compliance before the next regularly scheduled biennial inspection.

To develop an inspector performance baseline, HUD seeks to determine the acceptable variation between inspectors. HUD will conduct quality assurance inspections on HCV units to ensure inspector adherence to UPCS-V inspection standards and provide technical assistance where needed. HUD also will test both PHA and its own management controls to provide reasonable assurance that the process for planning, organizing, directing, and controlling the HCV unit-based inspection program will meet the requirements prescribed by UPCS-V.

### **C. Selection Criteria and General Participation Requirements**

#### General Participation Requirements:

To participate in this Demonstration, a PHA must administer a housing choice voucher program. PHAs participating in any aspect of the Demonstration will be required to participate in focus groups, conference calls, and training sessions on policies and procedures. HUD will train each participating PHA's inspectors, administrators, and quality control staff on the new inspection protocol, including how to use the inspection software. The PHAs will be responsible for scheduling inspections with all the participants, assigning inspectors, and conducting inspections. The PHA must conduct at least 10 inspections per week, and the geographic spread of those inspections should be such that 90 percent of inspections are accessible within a 30 mile (or 1 hour) driving range.

If selected, the PHA must participate in the Demonstration throughout the duration of the testing period for at least one (1) calendar year with the possibility of an extension, as

determined by HUD, for a maximum total of three (3) years. PHAs that participate will also need to provide an internet connected, internet operating system (iOS) or Android based electronic handheld device (smart phone or tablet) for each PHA staff inspector participating with capability to download the required HUD-provided inspection software.

Selection Criteria:

All PHAs must meet, at minimum, the general participation requirements described above. The strategic objectives for the Demonstration are for HUD to identify a diverse set of participants that will be representative of the different types of PHAs, properties and tenants found nationwide. HUD will use the following criteria to consider PHAs that have expressed an interest in participating in the Demonstration to ensure that participants represent the universe of PHAs that run HCV programs.

Participants will be selected based on the characteristics of the organization (PHA) and the type of properties and tenants it administers:

1. Characteristics of the PHA:
  - Is the PHA a local or state agency?
  - What percentage of HQS inspections are conducted annually? Biennially?
  - What percentage of the HCV housing stock is urban and what percentage is rural?
  - What percentage of the PHAs inspections are HCV inspections?
  - What is the number of monthly HCV inspections conducted?
2. Characteristics of the Properties & Tenants:
  - What is the number of HCV voucher holders?
  - What is the average rent amount?

- What is the percentage of PHA's HCV program that is Veterans Affairs Supportive Housing (VASH), Family Unification Program (FUP), and Non-Elderly Disabled (NED) participants?
- What is the average HCV family size?
- What type of housing is leased by HCV participants (single family, apartment, condo, high-rise, row house, duplex, townhouse, etc.)?
- What is the average age of the housing stock?
- What is the HCV tenant mix (by age, disability, elderly, family type, children, income level/hap amount)?

The criteria are designed to capture the variation in PHAs and market characteristics that could affect the implementation of UPCS-V. Depending on the applications for participation received and the characteristics of the PHAs applying, the criteria may be adjusted to more accurately represent the diversity of PHAs. Not all 250 participants may be selected in the first round of testing. Accordingly, as the Demonstration proceeds, HUD may expand the number of participating PHAs, revise the selection criteria, or both, to reflect HUD's experience in implementing the Demonstration.

#### **IV. Evaluating the Demonstration**

The Demonstration will provide HUD insight into the UPCS-V model, including its ability to expand HUD's oversight and risk management capabilities through a reliable, repeatable inspection process that better identifies health and safety risks to families, before implementing such a program nationwide. The Demonstration is anticipated to begin 60 days following the date of publication of this notice, with PHAs being added on a rolling basis until a representative sample has been reached. At the conclusion of the demonstration, HUD will

assess its success and determine whether to implement UPCS-V on a permanent basis throughout the country.

In the evaluation of the Demonstration, HUD will assess such factors as whether the use of the new UPCS-V protocol produces (1) more consistent and accurate results, (2) data standardization and a reliable method for information exchange, and (3) increased oversight and administration of the HCV Program. The demonstration also will review the feasibility of a PHA to implement the UPCS-V protocol, a factor HUD considers necessary for an accurate evaluation of the Demonstration's success.

## **V. Solicitation of Public Comment**

In accordance with section 470 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 3542), HUD is seeking comment on the Demonstration. Section 470 provides that HUD may not begin a demonstration program not expressly authorized by statute until a description of the demonstration program is published in the Federal Register and a 60-day period expires following the date of publication, during which time HUD solicits public comment and considers the comments submitted. HUD has established a public comment period of 60 days. The public comment period provided allows HUD the opportunity to consider those comments during the 60-day period, and be in a position to commence implementation of the demonstration following the conclusion of the 60-day period.

While HUD solicits comment on all aspects of the Demonstration, HUD specifically solicits comment on the following:

1. HUD is considering selecting for participation only PHAs that do not utilize contract inspectors. Are there any instances where an exception to this criterion might be useful?

2. Will utilizing commercial, off-the-shelf hardware, such as internet connected tablets or smartphones, reduce the barriers to participation for PHAs as opposed to having PHAs use more specific devices such as those required for other HUD UPCS inspections?
3. Are there other PHA characteristics that HUD should consider in selecting PHAs to participate in the demonstration?
4. Are there other revisions outside of the UPCS criteria that HUD should consider when moving toward a single inspection protocol?

HUD requests that PHAs interested in participating in the Demonstration notify HUD by the public comment deadline for this Demonstration notice by emailing HUD at [UPCSV@hud.gov](mailto:UPCSV@hud.gov), and providing the PHA name, PHA address, contact name, contact phone number, and email address.

Dated: April 28, 2016.

**Lourdes Castro Ramírez,**

*Principal Deputy Assistant Secretary for Public and Indian Housing.*

**BILLING CODE 4210-67**

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